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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

EVANISKO, LESLIE J

ART UNIT

PAPER NUMBER

2854

DATE MAILED: 10/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|--|---|--|
| Offic Action Summary | Application N . 09/303,632 Examin r Leslie J. Evanisko | Applicant(s) LEBEAU ET AL Art Unit 2854 |
| <i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i> | | |
| Period for Reply | | |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. | | |
| <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). | | |
| Status | | |
| 1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>30 July 2002</u>. | | |
| 2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final. | | |
| 3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213. | | |
| Disposition of Claims | | |
| 4) <input checked="" type="checkbox"/> Claim(s) <u>21-38,41 and 42</u> is/are pending in the application. | | |
| 4a) Of the above claim(s) _____ is/are withdrawn from consideration. | | |
| 5) <input type="checkbox"/> Claim(s) _____ is/are allowed. | | |
| 6) <input checked="" type="checkbox"/> Claim(s) <u>21-26,28-30,32-37,41 and 42</u> is/are rejected. | | |
| 7) <input checked="" type="checkbox"/> Claim(s) <u>27, 31, and 38</u> is/are objected to. | | |
| 8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement. | | |
| Application Papers | | |
| 9) <input type="checkbox"/> The specification is objected to by the Examiner. | | |
| 10) <input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner. | | |
| Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). | | |
| 11) <input checked="" type="checkbox"/> The proposed drawing correction filed on <u>25 September 2000</u> is: a)<input checked="" type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner. | | |
| If approved, corrected drawings are required in reply to this Office action. | | |
| 12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner. | | |
| Priority under 35 U.S.C. §§ 119 and 120 | | |
| 13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). | | |
| a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of: | | |
| 1. <input type="checkbox"/> Certified copies of the priority documents have been received. | | |
| 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. | | |
| 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). | | |
| * See the attached detailed Office action for a list of the certified copies not received. | | |
| 14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). | | |
| a) <input type="checkbox"/> The translation of the foreign language provisional application has been received. | | |
| 15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. | | |
| Attachment(s) | | |
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | | |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | | |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | | |
| 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____. | | |
| 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) | | |
| 6) <input type="checkbox"/> Other: _____ | | |

DETAILED ACTION

1. In view of the appeal brief filed on July 30, 2002, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Objections

2. Claims 31-38 are objected to because of the following informalities:

With respect to claim 31, the term "its" is unclear with respect to what structure "its" is suppose to be referring. To correct this problem, it is suggested that the term "its" be deleted and replaced with the appropriate structural element to which "its" is referring.

With respect to claim 32, the term "cover" appears to have been inadvertently omitted from line 1 of the claim after the term "transparent".

Appropriate correction and/or clarification is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 21, 24-26, 32, and 35-37 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over IBM Technical Disclosure Bulletin, June 1994, Vol. 37, Issue 6B, pages 125-126. (referred to hereafter as the IBM reference). The IBM reference teaches a package of disposable, thin, resilient, conformal clear plastic covers, each being at least one sheet of a predetermined size in length and width for protecting an entire upper surface of a handheld computer unit (for example, from inclement conditions) while still allowing the operator to manipulate the unit. Note in particular, Figures 1-3 and the language in the fourth paragraph on page 126. Note the IBM reference teaches that the computer unit 12 "may be, for example, a tablet computer using a proximity stylus device for input, instead of a keyboard." (lines 1-2 of paragraph 3 on page 125). This language appears to indicate/teach that the cover may also be used on a computer unit having a keyboard. Regardless, this language at least teaches that handheld computer units including keyboards are well known in the art and therefore, it would have been obvious to one of ordinary skill in the art to use the cover described

by the IBM reference on a computer unit including a keyboard as it would simply require the obvious substitution of one known computer unit for another to protect the keyboard surface from a harsh environment.

With respect to claims 24 and 35, note the at least one sheet contacts and protects entire upper and bottom surfaces of the keyboard to maintain the keyboard sterile.

With respect to claims 25 and 36, note the at least one sheet is broadly formed with an upper member and a lower member as recited, as shown in Figures 1-3 in particular.

With respect to claims 26 and 37, note the at least one sheet is broadly formed as an “envelope” with an elongated opening along an elongated top edge portion (to the extent applicant has defined in the claim which edge is the top edge portion), as shown in Figures 1-3 in particular.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 28-30 and 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over IBM Technical Disclosure Bulletin, June 1994, Vol. 37,

Issue 06B in view of Lafond (US 5,564,829). The IBM reference teaches a package of individual disposable covers as recited with the exception of the cover being formed of two identical flat sheets of plastic film being fastened together to provide a bag shape for enveloping the keyboard. However, the construction of two-ply bags which are made of two identical flat sheets of plastic film being fastened together is well known in the art as exemplified by a typical/conventional sandwich bag as well as by the teachings of Lafond in column 4, lines 8-15. In view of these teachings, it would have been obvious to one of ordinary skill in the art to construct the keyboard cover of the IBM reference from two identical flat sheets to allow different size covers to be more easily manufactured for containing and protecting a computer keyboard from a harsh environment.

With respect to claims 29-30, note that a conventional sandwich bag is fastened together along each of the side edge portions and along the elongated bottom edge portion to provide one long opening along the top edge. Furthermore, note that both Lafond and the IBM reference teach a bag formed as an elongated envelope having at least one of the short side edge portions open to allow insertion of the object into the bag. In view of these teachings, it would have been obvious to one of ordinary skill to join any desired edges of the flat sheets of film in order to provide a bag configured as desired to facilitate insertion of the object into the bag.

7. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campoli (US 5,509,573) in view of Carter (US 5,527,122). Campoli teaches a replaceable clear sheet or film for covering the upper surface of a keypad **70** of the computer system to help maintain the keypad in an aseptic condition. Although Campoli is silent with respect to the particular fastening structure used to attach the cover to the keypad, the use of strips of adhesive on the cover member to secure the cover to the keyboard surface is well known in the art as exemplified by Carter in Figure 5a and column 5, lines 50-52. In view of this teaching, it would have been obvious to one of ordinary skill in the art to provide adhesive strips as taught by Carter along the top and bottom edges of the keyboard cover of Campoli to better secure the keyboard cover to the upper surface of the keyboard.

8. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campoli (US 5,509,573) in view of Carter (US 5,527,122) and IBM Technical Disclosure Bulletin, June 1994. Campoli teaches a replaceable clear sheet or film for covering the upper surface of a keypad **70** of the computer system to help maintain the keypad in an aseptic condition. Although Campoli is silent with respect to the particular fastening structure used to attach the cover to the keypad, the use of strips of adhesive on the cover member to secure the cover to the keyboard surface is well known in the art as exemplified by Carter in Figure 5a and column 5, lines 50-52. In view of this teaching, it

would have been obvious to one of ordinary skill in the art to provide adhesive strips as taught by Carter along the top and bottom edges of the keyboard cover of Campoli to better secure the keyboard cover to the upper surface of the keyboard.

Furthermore, although Campoli does not necessarily teach a package of individual disposable covers as recited, note the IBM reference teaches packs of individual disposable covers for covering handheld computer devices in the fourth paragraph on page 126. In view of this teaching, it would have been obvious to one of ordinary skill in the art to provide a pack having a plurality of the replaceable film cover of Campoli to facilitate discarding and replacing the covers as they become soiled or damaged.

Response to Arguments

9. Applicant's arguments with respect to claims 21-26, 28-30, 32-37, and 41-42 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

10. Claims 27, 31, and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Additionally note that the above claim objections must also be overcome to the satisfaction of the Examiner.

11. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach or fairly suggest a keyboard cover (or package of covers) including all of the structure as recited, in combination with and particularly including, the at least one flat and transparent sheet of pliable plastic film of uniform thickness and a predetermined size in length and width is formed as an envelope with an elongated opening adjacent one corner and extending along one side edge portion and generally to a midpoint along a top edge portion.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nakamura et al. (JP 7-149391), Mitchell (US 6,273,252), and Frehn (US 4,546,217) each teach a cover for a keypad or keyboard having obvious similarities to the claimed subject matter.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(703) 308-0786**. The examiner can normally be reached on M-Th 7:30 am-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew H. Hirshfeld can be reached on (703) 305-6619. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Leslie Evanisko
Leslie J. Evanisko
Primary Examiner
Art Unit 2854

lje
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October 21, 2002

Andrew Hirshfeld
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